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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **LILI CHING**
13 **3128 E. Woodbine**
14 **Orange, CA 92667**

15 **Registered Nurse License No. 350842**

16 **Respondent.**

Case No. **2011-134**
A C C U S A T I O N

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about January 30, 1982, the Board of Registered Nursing issued Registered
24 Nurse License Number 350842 to Lili Ching (Respondent). The Registered Nurse License was in
25 full force and effect at all times relevant to the charges brought herein and will expire on
26 February 29, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

"Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

"(a) Considering the denial of a license by the board under Section 480; or

"(b) Considering suspension or revocation of a license under Section 490.

"Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee."

7. Section 490 of the Code provides that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the

1 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
2 and the board may inquire into the circumstances surrounding the commission of the crime in
3 order to fix the degree of discipline or to determine if the conviction is substantially related to the
4 qualifications, functions, and duties of the licensee in question.

5 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
6 'registration.'"

7 9. Section 2761 of the Code states:

8 "The board may take disciplinary action against a certified or licensed nurse or deny an
9 application for a certificate or license for any of the following:

10 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

11 "....

12 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
13 functions, and duties of a registered nurse, in which event the record of the conviction shall be
14 conclusive evidence thereof.

15 "...."

16 10. Section 2765 of the Code states:

17 "A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
18 charge substantially related to the qualifications, functions and duties of a registered nurse is
19 deemed to be a conviction within the meaning of this article. The board may order the license or
20 certificate suspended or revoked, or may decline to issue a license or certificate, when the time
21 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an
22 order granting probation is made suspending the imposition of sentence, irrespective of a
23 subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person
24 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict
25 of guilty, or dismissing the accusation, information or indictment."

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REGULATIONS

11. California Code of Regulations, title 16, section 1444, states:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

"(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

"(b) Failure to comply with any mandatory reporting requirements.

"(c) Theft, dishonesty, fraud, or deceit.

"(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code."

12. California Code of Regulations, title 16, section 1445 states:

"....

"(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

"(1) Nature and severity of the act(s) or offense(s).

"(2) Total criminal record.

"(3) The time that has elapsed since commission of the act(s) or offense(s).

"(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

"(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

"(6) Evidence, if any, of rehabilitation submitted by the licensee."

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COST RECOVERY

13. Section 125.3 of the Code provides that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(September 19, 2005, Conviction for Commercial Burglary, Grand Theft, and Possession of a Burglary Tool on May 7, 2005)

14. Respondent is subject to disciplinary action under Code sections 490 and 2761, subdivision (f), on the grounds that she was convicted of a crime that is substantially related to her qualifications, functions and duties as a registered nurse. The circumstances are as follows:

a. On or about September 19, 2005, in a criminal proceeding entitled *The People of the State of California v. Li Li Ching aka Lily Ching aka Lili Ching aka Lili Hsu*, Orange County Superior Court, Harbor Justice Center, Newport Beach Facility case number 05HM05255, Respondent was convicted on her plea of guilty of violating Penal Code sections 459-460, subdivision (b), second degree commercial burglary; Penal Code section 487, subdivision (a), grand theft; and Penal Code section 466, possession of a burglary tool, misdemeanors.

b. As a result of the convictions, on September 19, 2005, Respondent was sentenced to 3 years informal probation, ordered to serve 20 days in Orange County Jail, complete 20 days of community service in lieu of 20 days in jail as directed by the Volunteer Center, ordered to violate no law, pay various fines and fees, submit to search at any time as requested by any law enforcement or probation officer, and to stay away from Macy's stores.

c. The facts that led to the convictions are that on May 7, 2005, Respondent was detained for shoplifting of around 20 items by a loss prevention officer of Macy's Department store located at South Coast Plaza, 3333 Bristol Street in Costa Mesa. Respondent told a Costa Mesa Police officer that she stole things by taking clothes into the fitting room and cutting off the security sensors with pliers that she brought with her to Macy's specifically to steal clothes. Respondent was arrested and taken to the Orange County Jail.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 350842, issued to Lili Ching;
2. Ordering Lili Ching to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 8/17/10


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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